

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Rulemaking to Define)	
“Captured” and “New” Subscriber Lines)	RM No. 10522
for Purposes of Receiving Universal)	
Service Support Pursuant to)	
47 C.F.R. § 54.307 et seq.)	

COMMENTS OF THE RURAL INDEPENDENT COMPETITIVE ALLIANCE

The Rural Independent Competitive Alliance (“RICA”) files these comments in response to the July 26, 2002, Petition for Expedited Rulemaking (“Petition”) filed by the National Telecommunications Cooperative Association (“NTCA”) pursuant to the Order released September 9, 2002, DA 02-2214, establishing revised filing dates. RICA is an alliance of competitive local exchange carriers (“CLECs”) operating in rural areas and affiliated with Rural Telephone Companies. RICA agrees with NTCA that the current rules result in a serious and growing misallocation of Universal Service Funds which will ultimately interfere with the attainment of the Congressional objections. RICA, however, suggests an alternative approach to the issues which would ensure that support is provided on an equitable and competitively neutral basis.

NTCA correctly points out in its petition the rapidly growing threat to the integrity of the Universal Service Fund resulting from wireless carriers obtaining USF support for all their

subscribers based on the per-line support of the incumbent local exchange carrier (“ILEC”). The Fourth Quarter 2002 projections by USAC shows that of the approximately \$75 million in annual payments to competitive eligible telecommunications carriers (“CETCs”) the top fifteen recipients, all wireless carriers, receive almost \$71 million, or nearly 95 percent of all CETC support received. NTCA suggests that these payments are excessive because the wireless carriers apparently claim support for all of their subscribers in the designated service area. NTCA proposes to reduce support payments to the CETC by rule changes which, in effect, would generally maintain support payment to the incumbent until the subscriber discontinues all the incumbent’s services, except where a CETC is the first carrier to serve a subscriber.

NTCA has correctly identified symptoms of an underlying dysfunction in the USF program. Elimination of duplicate support is at best, however, premature, and raises issues of competitive neutrality better addressed by dealing with the root cause of the problem. Excessive compensation to wireless carriers, and inadequate compensation to facilities-based wireline rural CLECs, is caused by the current use of the ILEC’s per-line support to determine support for CETCs. While this method presents an appearance of administrative simplicity, it is fundamentally inconsistent with the concept that support should be specific, predictable and sufficient in order to achieve reasonably comparable rates between urban and rural areas. Simply stated, carriers with obligations to serve all potential customers in a given area incur the cost of building and operating a *network*, of which the costs of serving a particular line are a minor

component.¹

The nature of network costs is that they remain virtually unchanged when a particular customers transfers to a competing carrier. It is not feasible to remove a particular pair of wires from the cable serving the area, or to downsize a central office switch by one subscriber. If universal service support becomes dependent upon service to individual lines, it is likely that in many instances it will be insufficient to allow ETCs to meet their obligations. The Commission's decision not to accept the recommendation of the Rural Task Force to freeze support upon designation of a second ETC and base ongoing support on a per line basis was consistent with the understanding of the network basis of cost of service. RICA does not support rule changes that would move toward a system of support tied to adding or subtracting particular customers.

The present rules produce inadequate support to small rural CLECs in many cases because of the broad averaging used in determining support for the large ILECs with which they compete. A rural CLEC may operate in an area which has all the geographic and demographic cost determinations which would result in substantial support to a small ILEC of similar size providing service in the area, but where the service area is that of a large ILEC, such as a Bell Operating Company, there is often no support at all because the study area of the large ILEC as a whole is not predicted to have high costs by the Commission's model. The result is that it may

¹Consistent with this reality, ILEC universal service support was originally conceived as an additional allocation of the carrier's costs to the interstate jurisdiction based upon the objective factors of loop cost and number of loops served. The universal service support which resulted was therefore a component of the carrier's recovery of its total costs, along with inter and intrastate access charges and local service revenues. The ILEC recovered only 100% of its costs, which included a prescribed return on investment.

not be economically feasible for a CLEC to compete in the area and bring improved services to subscribers as a result of cost and other factors largely unrelated to the costs of serving the particular area.

To ensure that support is adequate, competitively neutral, and used only for universal service purposes, support must be based on the amount of support needed by each ETC to achieve the objectives of Section 254 and meet its obligations as an ETC. To the extent it is impractical to achieve this goal on a carrier by carrier basis, the rules must at least recognize the fundamental differences between different categories of carriers. If the essential nature of the issue is recognized, reasonable systems can be devised to provide support based upon the cost characteristics of the different types of carriers and technologies utilized. Such a support system could include both a standard formula for compensation and an opportunity for a carrier to establish its individual costs, in a manner similar to the rule permitting average schedule ILECs to elect to perform cost studies.

In conclusion, RICA urges the Commission to recognize the reality and urgency of the problems identified by NTCA, but to address them in a manner which is equitable and competitively neutral to all ETCs.

Respectfully submitted,

Rural Independent competitive Alliance

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CERTIFICATION OF SERVICE

I, Clifford Rohde, certify that on this 23 day of September, 2002, copies of the foregoing "COMMENTS OF THE RURAL INDEPENDENT COMPETITIVE ALLIANCE" were served on the parties indicated below via U.S. first class mail.

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